

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-7570

DANIEL J. WILLIS,

Plaintiff - Appellant,

versus

JAMES B. HUNT, JR., Governor for the State of North Carolina; JIM DRENNON, Director of the Administration Office of the Courts; KENNETH TURNER, retired Judge, North Carolina Judicial System; STEPHEN WILLIAMSON, retired Judge, North Carolina Judicial System; BILLY W. WHITE, Magistrate, North Carolina Judicial System; WILLARD ODELL LEWIS; EDWARD EUBANKS; CHARLES JONES; JOFFREE T. LEGGET; CLIFTON SPIVEY; JEFF SPIVEY; RON METTS, in his official capacity as Clerk of Court,

Defendants - Appellees.

No. 95-7753

DANIEL J. WILLIS,

Plaintiff - Appellant,

versus

JAMES B. HUNT, JR., Governor for the State of North Carolina; JIM DRENNON, Director of the Administration Office of the Courts; KENNETH TURNER, retired Judge, North Carolina Judicial System; STEPHEN WILLIAMSON, retired Judge, North Carolina Judicial System; BILLY W. WHITE, Magistrate, North Carolina Judicial System; EDWARD EUBANKS; CHARLES JONES; JOFFREE T. LEGGET; CLIFTON SPIVEY; JEFF SPIVEY; WILLARD ODELL LEWIS; RON METTS, in his official capacity as Clerk of Court,

Defendants - Appellees.

Appeals from the United States District Court for the Eastern District of North Carolina, at Greenville. Malcolm J. Howard, District Judge. (CA-95-51)

Submitted: March 21, 1996

Decided: April 4, 1996

Before NIEMEYER and MICHAEL, Circuit Judges, and BUTZNER, Senior Circuit Judge.

No. 95-7570 dismissed in part and affirmed in part and No. 95-7753 affirmed by unpublished per curiam opinion.

Daniel J. Willis, Appellant Pro Se. Thomas Giles Meacham, Jr., OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals from two district court orders. In No. 95-7570 the Appellant appeals from an order denying reconsideration of an order dismissing claims against one Defendant in his individual capacity and all Defendants in their official capacity, dismissing claims for monetary damages, and dismissing Appellant's request for injunctive and declaratory relief. Several claims are still pending before the district court. With the exception of the claim for injunctive relief, this court is without jurisdiction over the appeal because the order is not appealable. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (1988), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (1988); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order here appealed is neither a final order nor an appealable interlocutory order, with exception of the injunctive relief claim, nor is it an appealable collateral order. We therefore dismiss the appeal of the claims not involving injunctive relief as interlocutory.

This court has jurisdiction to consider the appeal of the district court's order declining to reconsider the denial of injunctive relief in accordance with 28 U.S.C. § 1292 (1988). We find that the district court did not abuse its discretion in denying injunctive relief. Appellant's motion to reconsider did not discuss or raise new issues regarding the injunction sought, and the motion presented no exceptional circumstances warranting relief. See Dowell v. State Fire & Cas. Auto Ins. Co., 993 F.2d 46,

48 (4th Cir. 1993). Further, the district court acted properly in declining to award the requested injunction on comity grounds. Accordingly, we affirm the denial of reconsideration as to the claim for injunctive relief.

Finally, in No. 95-7753, the Appellant appeals from the district court's order directing the clerk to retain the record in the district court while the appeal in No. 95-7570 was pending. This order was proper because the pending appeal was mostly interlocutory in nature and the relevant documents were forwarded to this court for consideration. See Fed. R. App. P. 11(e). We therefore affirm the order directing that the record be retained in the district court.

We deny the motion for oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

No. 95-7570 - DISMISSED IN PART AND
AFFIRMED IN PART

No. 95-7753 - AFFIRMED